

EXHIBIT 90

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Mark Nunez, et al.,

Plaintiffs,

-against-

The City of New York, et al.,

Defendants.

Case No. 11-cv-5845 (LTS)(JCF)

DECLARATION OF GILSON GARCIA

GILSON GARCIA, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I make this declaration in support of Plaintiffs' Motion for Contempt and Receivership filed in this case, *Nunez, et al. v. City of New York, et al.*, 11-cv-5845.
2. I have been in the custody of the New York City Department of Correction (DOC) since October 1, 2021.
3. After I was in intake, I was transferred to the housing unit where my brother Gilberto Garcia, who I called "Fuli," was housed in the Anna M. Kross Center ("AMKC"). On October 31, 2022, we were in the housing unit 15 Lower in AMKC together. My brother and I were housed next to each other—I was in Cell #11 and Fuli was in Cell #10. There were also a couple of other people in our unit that I had known since childhood. I consider them my cousins. Their cells were near Fuli's and mine.
4. My brother and I would always check on each other. My brother almost always had his cell door cracked open. He also kept a sheet hanging in his cell. I only remember him closing his cell door when he used the bathroom.

5. On October 31, 2022, I went to check on Fuli. While standing in the hallway, I looked into his cell. He was sitting up on his bed with his back hunched over, his head down, and his hands folded in front of him. I thought he might be asleep. I didn't think too much of it and went to the dayroom. A short time later, I returned to Fuli's cell to check on him. He was in the same position. I called out to him and got no response. I got a bad feeling. I entered his cell and started tapping him. His body felt stiff and cold. I noticed that his hand was purple. I began to panic. I screamed for help right away. I screamed "medical emergency." One of my childhood friends came over to Fuli's cell immediately. He helped me try to revive my brother. I laid him down on the bed.

6. A CO had been sitting at her post in our housing unit, which was near the A and B gate and the bubble. The post was all the way down the tier, several cells away from my cell. When I was calling for help, this CO was taking her time, moving slowly. I ran out of my brother's cell. I ran to her and grabbed her Narcan.

7. I gave my brother Narcan. He was not responding. I had never administered Narcan before. I also did CPR on him. I was trying to do CPR as best as I could, but I had never been trained to do it. He was not responding.

8. While we continued to wait for the medical emergency team to come, someone from the clinic named Garcia arrived and began to help me give CPR. She pressed my brother's chest while I gave mouth to mouth. We gave him CPR for what felt like a long time.

9. I was in shock. It felt like a dream.

10. The medical emergency team finally arrived. They told me to step out of the cell. At first, I didn't because I still wanted to try the best I could to help my brother, but they had

brought machines and made me step out. At this point, I was outside the cell, looking in. They seemed to be giving him oxygen through a machine in his mouth. I was praying and crying.

11. Eventually, someone from the medical emergency team placed a sheet over him.

12. They gave me a couple of minutes to be with my brother. I then called my girlfriend to let her know. She was crying. She said she would call Fuli's girlfriend. I couldn't bring myself to tell my mom.

13. At some point, I started punching a wall. I think I was in my cell. My fists were bleeding from punching the wall, and they were in pain. But the pain was not bothering me because I mostly felt numb.

14. When doing their rounds, an officer is supposed to knock on each person's cell and wait for a response before moving to the next cell. I never heard the officer in our housing unit knock on our cells on the day of my brother's death.

15. For weeks after my brother's death, I remained housed in AMKC 15 Lower, the same unit where my brother passed away. I did not want to be in that unit, and I asked to be moved many times. I was not comfortable passing his cell because I kept expecting him to be there. But I had to face the reality that it really happened—he was no longer alive. I was eventually moved to another house in AMKC, 11 Lower, but it took a lot of work for me to get there.

16. Today, as I think about Fuli's death, I feel glad for the time we had together. I know that sounds strange since we were incarcerated at the time, but I am glad I got to see him and spend that time together.

17. It is impossible for me to explain how much I miss my brother. I am always depressed. I feel mentally damaged and mentally disturbed, and I do not think my mental health

is being taken care of here. I am going through the worst trauma that I could ever go through. What happened to my brother is on my mind every single day, and I do not think that will go away. I think about doing bad things to myself, but I don't want to do that to my family. It would just make things worse.

18. While I am at Rikers, I know I will never feel safe. It does not matter where I am housed, anything can happen here. Our mental and physical health do not get taken seriously here. You don't even get things you are entitled to. Everything is just a joke here.

Dated: November 9, 2023
New York, New York


 Gilson Garcia